

ESA Compliance and Conservation Strategy Work Plan

March 1, 1998 to December 31, 1998

Background

As part of the overall CALFED Bay-Delta Program, efforts have been initiated to develop a State and Federal ESA compliance process for Phase II of the Program. This compliance process will form the regulatory framework to continue the process into Phase III of the program.

As a first step in implementing the State and Federal ESA compliance process, CALFED has begun development of a Conservation Strategy for the CALFED Program. The Conservation Strategy will address all sensitive species and their habitats potentially affected by the Program, the effects of CALFED Program actions (beneficial, adverse, and neutral) on those species and habitats, and the minimization and mitigation measures needed to offset the anticipated adverse impacts and allow for species/habitat recovery. In addition, the Conservation Strategy will assist in developing the restoration implementation strategy for the Strategic Plan. The Conservation Strategy will provide species and habitat-specific input for the Strategic Plan monitoring program, adaptive management process, and a process to address funding for unforeseen circumstances. The Conservation Strategy will aim to provide a comprehensive, long-term plan that will allow for the recovery of listed species and conserve currently unlisted species.

Take authorization will be granted when specific actions are defined or at such time as adequate information is available to assess project effects on listed or other sensitive species. The Conservation Strategy will outline the criteria and process for determining the appropriate mechanism for implementing the strategy and authorizing incidental take associated with specific Program actions. The regulatory mechanisms that will be used to authorize incidental take under the Federal ESA include formal consultation pursuant to Section 7, permit issuance pursuant to Section 10(a)(1)(B), which includes the development of one or more Habitat Conservation Plans (HCP), and/or a special rule for threatened species under Section 4(d). The regulatory mechanisms that will be used to authorize take under CESA include Section 2835 of the California Fish and Game Code (the Natural Community Conservation Planning Act), which includes the development of a Natural Community Conservation Plan (NCCP), Section 2081 of the California Fish and Game Code, and/or Section 2090 or successor sections of the California Fish and Game Code. The specific levels of take and conditions under which incidental take may occur will likely be deferred until Program actions become more defined. The Conservation Strategy for the species and/or habitat will be the same regardless of the implementing mechanism used to authorize take.

This statement of work outlines the steps necessary to complete the Endangered Species Act consultation and the development of a Conservation Strategy as part of the CALFED ecosystem restoration strategy.

Overview of Tasks

This effort will require coordination of work efforts between CALFED and CALFED agency staff. The U.S. Fish and Wildlife Service (FWS) will serve as the lead agency to assist CALFED in preparation of necessary documents and provide leadership (through the CALFED Program) in the development of those documents. In such a leadership role, FWS efforts are outlined as part of this statement of work. The Core Team developing the Strategic Plan is responsible for integrating the Conservation Strategy into the Strategic Plan for CALFED restoration. The Core Team will define the overall restoration strategy and will provide guidance to the lead agency and CALFED staff to ensure that the Conservation Strategy is fully integrated into the Strategic Plan. Coordination and additional effort will also be required from other CALFED agencies playing a role in the development of these documents (California Department of Fish and Game, National Marine Fisheries Service). Substantial consultant effort will also be required to develop the more detailed information necessary to support the development of the Conservation Strategy.

Integration of the Conservation Strategy into the Strategic Plan will be overseen by the Core Team. Conservation Strategy staff and consultants will incorporate the restoration strategies and adaptive management process defined by the Strategic Plan effort into their planning and will contribute species-specific information to the Restoration Coordination Program and the Strategic Plan efforts.

The primary tasks involved in the completion of a Conservation Strategy and ESA compliance documentation include:

Task 1: Develop an overall ESA Compliance/Conservation Strategy which explains the rationale and process to be followed to be included with Draft EIS/EIR;

Task 2: Develop Conservation Strategy Matrices which compile and present species ecological information including impacts of CALFED Program actions (subtasks include scoping of conservation strategy, determining effects of program on species, determine conservation actions to refine ERPP). This information (in addition to the Programmatic EIS/EIR) will serve as the biological assessment for the Section 7 consultation. Additionally, a list of covered species will be developed and the geographic area to be covered by the Conservation Strategy will be described. Matrices for each covered species and their habitats will be produced.

Task 3: Provide Species specific input into the development of a Conservation Strategy Implementation Plan including identification of monitoring and adaptive management needs to be incorporated into the Strategic Plan;

Task 4: Preparation of a Strategy Document for inclusion with final EIS/EIR (subtasks include determining permit structure and amendment process, development of an implementation strategy for the Conservation Strategy, participating in public meetings and public outreach activities for the Conservation Strategy, responding to public comments regarding the Conservation Strategy, and preparing final Conservation Strategy Document, and preparation of specific NEPA/CEQA documentation needed for the Conservation Strategy during preparation of the Programmatic EIS/EIR. The Conservation Strategy will describe a process for dealing with unforeseen circumstances, a permit structure and amendment process, and a monitoring and adaptive management program focusing on covered species and habitats. Additionally, a mechanism to allow for appropriate assurances will be described.

Description of Tasks and Schedule

Task 1. Develop an overall ESA Compliance/Conservation Strategy

An overall ESA Compliance strategy/Conservation Strategy will be prepared which provides a framework and is intended to function as a "blueprint" for assessing the effects of program actions and identifying conservation, minimization, and mitigation measures. The first draft of this strategy will be included as a technical appendix with the draft EIS/EIR. The strategy will describe ESA compliance for the CALFED Bay-Delta program at a programmatic level and discuss the future permitting structure. Species to be covered as part of the Conservation Strategy will not be included in the draft EIS/EIR. Between the release of the Draft EIS/EIR and the final EIS/EIR, the Strategy will be refined and revised significantly to add additional detail as it is determined (see task 4). A fully fleshed out strategy will be part of the final EIS/EIR.

The FWS will be the lead for this task and be responsible for preparation of the written material describing the strategy for the Draft EIS/EIR with review and incorporate comments from CALFED staff and other agency staff. Consultant will attend meetings and facilitate input from various stakeholders.

| | FWS | | CALFED | | Consultant 1 |
|---------------|-----------------|-----------------|----------------|--|---------------------|
| Task 1 | .25 FTE | \$21,250 | .05 FTE | | Mantell - .5 |
| Total | \$21,250 | | .05 | | \$25,000 |

Deliverable: ESA Compliance/Conservation Strategy for Draft EIS/EIR - FWS

Schedule: Completed February 1998

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Task 2: Develop Conservation Strategy Matrices

Subtask 1: The Conservation Strategy will address activities and the associated impacts in the geographic area covered by the Ecosystem Restoration Program Plan (ERPP), the projected footprint areas of the potential storage and conveyance facilities, plus any other areas that may be identified as being directly or indirectly affected by CALFED actions. The Strategy will address the time period beginning with implementation of the CALFED Program and continuing through completion of the Program actions (CALFED anticipates the Program will be implemented over approximately 30 years).

The scope of Conservation Strategy will be prepared by identifying the area to be covered by the strategy, the species that will be covered (list of covered species) and the habitats to be included. Species will be initially separated into Delta species and non-Delta dependent species similar to the ERPP designations. Delta species are those species dependent on the Delta for which ERPP actions are intended to achieve recovery. The Conservation Strategy will identify any refinements necessary to the ERPP to achieve this goal. Other species are those species in ecological zones other than the Delta for which the ERPP intends to contribute to recovery. The Conservation Strategy will identify actions which are necessary to conserve these species. Other species not targeted by the ERPP but affected by other CALFED Program actions (i.e. storage sites) will also be identified and conservation actions identified.

Deliverables: Discussion of scope of Conservation Strategy - FWS
List of covered species - Contractor

Schedule: June 1998

Subtask 2: Contractor will compile a summary of population and life history information including important habitat types and ecological processes for species determined to be covered in the Conservation Strategy. Sources of data will include recovery plans, published and unpublished literature, and personal communications. Information will be prepared in text form. A summary matrix table will be prepared for each species that demonstrates the relationship to habitats and ecological processes on which they depend. Each CALFED action that may affect covered species will be identified. Matrices will be developed which evaluate the effects of Program actions on covered species (beneficial, adverse and neutral impacts) and on critical habitat designated for a species. Additional information

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will include species needs not met by ERPP; effects of other CALFED program actions; mitigation and minimization measures for all program actions; and identification of key actions necessary for conservation and/or recovery. The Conservation Strategy, in combination with the Programmatic EIS/EIR will serve as the biological assessment for the Section 7 consultation.

The following information will also be compiled to complete the matrices:

- Identify each of the CALFED Program actions that may affect that species or habitat. An appendix or other supporting document will provide a description of all of the actions.
- Analyze the effects of each of the actions (beneficial, adverse, and neutral) on the species and on any critical habitat that has been designated for a species. Where and when appropriate, this analysis also will specify the level of incidental take anticipated from an action; this information will be important in evaluating the authorization of such take through one or more of the regulatory mechanisms described below in task 4.
- Identify the appropriate conservation, minimization, and/or mitigation measures necessary to provide for the conservation of the species or habitat. Examples of the types of measures that may be applied include:
 - “No additional measures needed” in the case of some actions which provide only benefits to the species/habitat.
 - Recommended refinements to an action; for example, for the California clapper rail, tidal marsh habitat should be restored in a particular area of the Bay adjacent to existing habitat.
 - General conservation or recovery goals for a species or habitat if they are known; for example, a particular sensitive plant may require a minimum number of populations over its range with a minimum number of individual plants in each population.
 - Restrictions or limitations on a particular action; for example, a timing restriction on levee maintenance work to avoid impacts to Swainson’s hawks.
 - Minimization measures designed to reduce adverse effects to a species or habitat; for example, specific suggestions for operating the storage and conveyance system in a manner which reduces impacts to sensitive fish species.

- Specific mitigation measures to offset those adverse impacts to a species or habitat which cannot be avoided. Such measures may include the establishment and management of permanent preserves, restoration of degraded habitat, breeding or propagation programs, among others.
- In some cases, specific research or monitoring needs may be identified for a species or habitat.
- Analyze the Program-wide, cumulative effects of all CALFED actions on the species or habitat.

Deliverables: Matrices by species and habitat - CALFED will oversee preparation by contractor in coordination with FWS and other agencies

Schedule: August/September 1998

Subtask 3: Conduct outside scientific review of matrices/species information as needed. Participate in Ecosystem Science Program workshops/work groups to contribute to species-related priorities in the Strategic Plan team and Restoration Coordination and gain additional information from Tier II experts. Specific assistance may be required to evaluate phasing of actions or determination of general priorities.

Deliverable: none

| TASK 2 | FWS | | CALFED | | Consultant (Mantell or other) | | Consultant 2 | |
|--------------|--------------------|----------------|------------|----|-------------------------------------|--------|------------------|---------|
| | FTE | \$ | FTE | \$ | FTE | \$ | FTE | \$ |
| Subtask 1 | .25 FTE | 21,250 | .1 | | .1 | 5,000 | 125 hrs | 25,000 |
| Subtask 2 | 3.75 FTE | 318,750 | .3 | | 0 | | 2920 hours | 365,000 |
| Subtask 3 | 0 | | .05 | | 400 | 50,000 | | |
| Total | 4.0 FTE | 340,000 | .45 | | \$55,000 | | \$390,000 | |

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Task 3. Provide input to the Strategic Plan focussed on ESA concerns

Subtask 1: Provide species specific input to help guide the development of an Strategic Plan for ecosystem restoration and an overall implementation strategy for the CALFED Program.

Subtask 2: Provide input to a monitoring and adaptive management program of the Strategic Plan focusing on covered species and habitats. The monitoring program will describe the specific goals of monitoring and identify appropriate methodologies for achieving those goals. The monitoring and adaptive management program developed for the ERP will fulfill most of the monitoring and adaptive management needs for the Conservation Strategy; however, additional measures will likely be needed to ensure full implementation of the Conservation Strategy. In general, the goals of monitoring will be to assess the effects of CALFED actions on covered species and habitats (i.e., how do the actual effects compare with those anticipated), assess the impact of those effects on particular species (i.e., what does it mean for a particular species to lose or gain "x" number of acres of habitat or "x" number of individuals), and assess the success of the conservation and mitigation measures (i.e., do these measures actually benefit species in the ways and to the extent anticipated). The monitoring and adaptive management program will be closely linked to the IEMRP monitoring effort and the phased implementation of the entire CALFED program. The monitoring and research needs will be incorporated into Restoration Coordination Action Plan and Strategic Plan.

Adaptive management in the Conservation Strategy will play an important role in providing assurances. The Conservation Strategy will describe and implement processes of testing alternative ways of meeting conservation objectives and adapting future management actions according to what has been learned. The adaptive management program will rely upon the identification of indicators of species or ecosystem health, and comprehensive monitoring to measure improvement over time. Success of the conservation measures may be closely linked to the implementation of the entire CALFED program. As restoration progresses and threats to listed species are reduced, resolution of conflicts between beneficial uses in the system will be facilitated.

Deliverable: Discussion of monitoring and adaptive management needs of covered species and habitats - FWS

Schedule: October/November 1998

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| TASK 3 | FWS | | CALFED | | Consultant 1 (Mantell or other) | | Consultant 2 | |
|-----------|---------|--------|--------|----|------------------------------------|--------|--------------|----|
| | FTE | \$ | FTE | \$ | FTE | \$ | FTE | \$ |
| Subtask 1 | .1 | 8,500 | | | .1 | | | |
| Subtask 2 | 1.00 | 85,000 | .1 | | Strategic Plan | | | |
| TOTAL | 1.1 FTE | 93,500 | .1 | | | 2.5K + | | |

Task 4: Preparation of a Conservation Plan for inclusion with final EIS/EIR (subtasks include determining permit structure and amendment process, developing the implementing agreement, holding public meetings, conducting public review of plan, responding to public comments, and preparing final Conservation Plan and preparation of appropriate NEPA/CEQA documentation specific to a Conservation Plan.

Subtask 1: Develop and refine the permitting process - permit structure and amendment process including the ESA section 7/section 10 criteria; CESA section 2081 /section 2090 and NCCP section 2835 - with NMFS and CDFG, develop criteria for which actions will be addressed through the above permitting sections.

Subtask 2: Develop a process for addressing unforeseen circumstances or a contingency strategy. Unforeseen circumstances are those changes in the circumstances surrounding the Conservation Strategy that were not or could not be anticipated by CALFED and that result in a substantial and adverse change in the status of a covered species.

Subtask 3: Coordinate the development of an implementation strategy for the Conservation Plan with other CALFED Programs including the Strategic Plan.

Subtask 4: Participate in CALFED public meetings and provide outreach materials on the Conservation Strategy.

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Subtask 5: Coordinate public review of draft Conservation Strategy to ensure adequate public involvement in the development of the final plan.

Ensure that adequate public input on the Conservation Strategy is obtained throughout the development of the Plan by providing regular updates at the BDAC Ecosystem Restoration Work Group meetings and the BDAC Assurances Work Group meetings. Additionally, invite other CALFED agencies to periodic meetings of the agency Conservation Strategy Team to ensure that they are kept up to date on the progress and issues being addressed. Also, present periodic updates to the CALFED Policy Group and/or Management Team to get feedback and ensure policy support during the development process. Periodic small meetings will be held as requested by interested stakeholders regarding the Conservation Strategy.

Subtask 6: Respond to public comments on Conservation Strategy as part of draft EIS/EIR

Subtask 7: Prepare final Conservation Strategy

Subtask 8: Ensure appropriate NEPA/CEQA documentation for Conservation Strategy as part of EIS/EIR

| TASK 4 | FWS | | CALFED | | Consultant 1 (Mantell or other) | | Consultant 2 | |
|-----------|-----|---------|--------|----|------------------------------------|--------|--------------|--------|
| | FTE | \$ | FTE | \$ | FTE | \$ | FTE | \$ |
| Subtask 1 | .3 | 25,500 | | | | | | |
| Subtask 2 | .25 | 21,250 | | | | 2.5K | 0 | |
| Subtask 3 | .5 | 42,500 | | | | | | |
| Subtask 4 | .25 | 21,250 | | | | | 100 | 12,500 |
| Subtask 5 | .1 | 8,500 | | | | | 100 | 12,500 |
| Subtask 6 | .2 | 17,000 | .2 | | | | 100 | 12,500 |
| Subtask 7 | .2 | 17,000 | | | | | 250 | 31,250 |
| Subtask 8 | .2 | 17,000 | .2 | | .3 | 15.5K | 50 | 6250 |
| | 2.0 | 170,000 | .4 | | | 17,500 | 658 | 82,250 |

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Deliverable: Draft Implementation Strategy for conservation needs - FWS
 Response to Comments - FWS
 Final Conservation Strategy - FWS and Consultant
Schedule: Dependent on completion of EIR/EIS - estimated October 1998

Summary Conservation Strategy Budget Worksheet: March 1 through September 30, 1998

| | FWS | CALFED | Consultant (other) | Mantell | Consultant 2 |
|--------|---------|---------|-----------------------|---------|--------------|
| Task 1 | 21,250 | | | 25K | |
| Task 2 | 340,000 | | 50K | 5K | 390,000 |
| Task 3 | 93,500 | | (Strat Plan) | 2.5K | |
| Task 4 | 170,000 | | | 17.5K | 82,250 |
| TOTAL | 624,750 | 1.0 FTE | 50K | 50K | 472,250 |

Total \$1,197,000